New Shoreham Town Council Minutes Town Hall, Old Town Road, Block Island Monday, June 7, 2010 7:00 p.m.

Present were First Warden Gaffett, Second Warden Raymond Torrey, Town Councilor Peter B. Baute, Town Councilor Kenneth C. Lacoste, Town Councilor Richard P. Martin. Also present were Town Manager Nancy O. Dodge, Town Attorney Donald J. Packer and Finance Director Amy Land. Town Clerk Fiona Fitzpatrick was present to take the minutes of the meeting.

First Warden Kimberley H. Gaffett called the meeting to order when the clock struck 7:00.

Warden's Report: The Block Island School seniors graduate Saturday at 1:00. The CRMC will meet to consider Champlins Marina Inc's application for expansion on Friday June 25th at 1:00 at the Narragansett Town Hall. The General Assembly will consider a new version of the renewable energy bill, House and Senate hearings will be tomorrow. The Rhode Island Natural History Survey's Block Island Bioblitz will be held this weekend. Scientists will be surveying open space on the north end of the Island. The event will begin Friday evening with Peter Lord speaking about "100 Years of Land Conservation in Rhode Island."

Public Input There was no input from the public.

Continuation of Public Hearing: application of Paynes 1614 Realty, LLC to amend the New Shoreham Zoning Map to change the zoning of Plat 5, Lot 111 (Payne's Harbor View Inn) from Mixed Use to New Harbor Commercial Zoning.

Continuation of Public Hearing: application of Paynes 1614 Realty, LLC to amend the New Shoreham Zoning Ordinance to add the words "Restaurants within Duly Permitted Inn" to the list of uses allowed by special exception in the Mixed Use Zone [at Article 3, Section 310(E)], and to make a corresponding change in Appendix B (Use Categories Allowed by Zoning District)

First Warden Gaffett reopened the public hearing on the applications and noted the public hearing was continued from Tuesday, May 4, 2010. Applicant requested changing the zoning designation of Plat 5, Lot 111 to New Harbor Commercial, or allowing restaurants as a special exception in the Mixed Use Zone.

Carole Payne, owner of Payne's 1614 Realty, LLC which operates Payne's New Harbor Inn and her attorney Bill Landry were present. First Warden Gaffett noted the Planning Board sent an advisory opinion which recommended denying the map change, and allowing restaurants within duly licensed inns in the Mixed Use Zone by special use permit with siting and operating standards. The Planning Board's recommendation included language for a new section 409. First Warden Gaffett read the advisory opinion into the record and it is attached to these minutes. Because the standards proposed are more restrictive than the advertised application, Attorney Packer said they could be adopted without further advertising.

Attorney Landry said the map change was not supported by the abutters or Planning Board, so the applicant concentrated on the text change. He said the text change is not in conflict with the Comprehensive Plan. He pointed out the property in question is within the business zone or village area described in the Comp Plan. He said 'unintended consequences' would be avoided by the vetting required by the Special Use process. He said the restaurant at Payne's New Harbor Inn was in operation for a season before the application and some neighbors support the change. He said there has been no music at the restaurant, and none is proposed.

Councillor Baute noted the BVL was issued for guests only, but the applicant served up to 50 or 60 people, in conflict with the terms of BVL license. Mr. Landry said those conditions were not clear to the applicant.

Planning Board Chair Margie Comings explained the Planning Board intended that an inn be allowed to operate a restaurant as a secondary business. She pointed out the advisory opinion limiting restaurant seats was purposeful. It ties the number of restaurant seats to the number of rooms at the inn. She said three seats per room per inn with a maximum of 30 seats would avoid a proliferation of full scale restaurants in nominal inns in the zone. She said the Planning Board's deliberations included the notion of more than one seating per meal. In limiting the size of restaurants the Planning Board considered the neighboring Fire and Rescue building and its need for street parking. She said the Planning Board's deliberations took into consideration five businesses they identified in the zone which could add restaurants if the change is made. A discussion ensued. Attorney Packer said an off street parking requirement could not be enforced.

Carole Payne said her establishment did not lend itself to multiple seatings per meal because people came for the sunset and lingered.

Joe Noel, a neighbor, spoke in opposition to the application.

Lew and Ann Fagan spoke in support of granting the application with the Planning Board's restrictions. Karen Kempf owns the Barrington and spoke in support of the application. Kathy Szabo and Kathy Balles spoke in support of the applications. Dave Voorhees spoke in support of the application.

At 8:10, the public hearing was closed.

First Warden Gaffett moved to deny the application of Paynes 1614 Realty, LLC to amend the New Shoreham Zoning Map to change the zoning of Plat 5, Lot 111 (Payne's Harbor View Inn) from Mixed Use to New Harbor Commercial Zoning for the reasons stated in the Planning Board's advisory opinion, which found the application was not supported by the Town's Comprehensive Plan. The motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

First Warden Gaffett moved to act on the application of Paynes 1614 Realty, LLC by amending the New Shoreham Zoning Ordinance in accordance with the Planning Board's advisory opinion of May 12, 2010 and based on the discussion tonight, to amend Zoning Section 310 (E) by adding "Restaurant (See Section 409)" and to adopt a new Section 409 as recommended by the Planning Board which would allow restaurants in the Mixed Use Zone by Special Use Permit with standards. The motion was seconded by Dr. Baute.

Mr. Martin moved to amend the motion to adopt a new Section 409 as recommended by the Planning Board but amending the first sentence in 409 (A) (4) Capacity Limit to read "The capacity of the restaurant shall be limited to no more than four (4) seats per room or suite, but in no case exceeding forty (40) seats." The motion was seconded by Ms. Gaffett.

Ayes: 4 (Gaffett, Torrey, Lacoste, Martin)

Nays: 1 (Baute)

Dr. Baute said he prefers not to exceed the limit recommended by the Planning Board.

The amended motion was called: to act on the application of Paynes 1614 Realty, LLC by amending the New Shoreham Zoning Ordinance in accordance with the Planning Board's advisory opinion of May 12, 2010 and based on the discussion tonight, to amend Zoning Section 310 (E) by adding "Restaurant (See Section 409)" and to adopt a new Section 409 as recommended by the Planning Board but amending the first sentence in 409 (A) (4) Capacity Limit to read "The capacity of the restaurant shall be limited to no more than four (4) seats per room or suite, but in no case exceeding forty (40) seats," which would allow restaurants in the Mixed Use Zone by Special Use Permit with standards.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

1. Receive and act on Harbor Committee Memorandum re: Chris Willi appeal of Old Harbor charter slip revocation

Town Councilor Kenneth Lacoste recused. Chris Willi was present to appeal the denial of his application to renew his Old Harbor charter boat slip. Harbormaster Steve Land issued the denial based on violations of the Old Harbor Dock Policy. The denial was upheld by the Harbor Committee on May 27, 2010. Also present were Harbormaster Steve Land, Harbors Committee members Edwin Merritt and Renwick Tweedy. Mr. Willi noted exceptions are granted retroactively. Discussion ensued.

Second Warden Torrey commended the Harbormaster for his ruling, and the Harbors Committee for upholding the ruling. He noted the Town Council has the executive authority to make an exception. He believes Mr. Willi has paid his price and has been disciplined for indiscretions. Mr. Torrey would make an exception which does not criticize the proper recommendation of Harbormaster and Harbors Committee. Mr. Martin said he was opposed to Mr. Willi running his business as usual by leasing out his slip against the Old Harbor Dock Policy. Discussion ensued.

Mr. Torrey moved to make an exception to the recommendation of Harbormaster and Harbors Committee by granting an Old Harbor charter boat slip to Chris Willi. The motion was seconded by Dr. Baute.

Ayes: 2 (Baute, Torrey) Nays: 2 (Gaffett, Martin) Abstain: 1 (Lacoste)

The motion did not carry.

2. Receive and act on Harbor Committee letter re: RI Regional Sediment Management Plan Ms. Gaffett said the item was on the agenda at the request of the Harbors Committee. She preferred to receive additional information and discuss the issue further with the Harbors Committee. The Council will meet with Harbors in a work session on Tuesday, June 22, 2010 at 7:30 at Town Hall. No action

was taken.

3. Receive and Act on Report of NSPD for May, 2010

Gaffett moved to receive the report of the New Shoreham Police Department of May, 2010, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin)

Nays: 0

4. Act on Town of New Shoreham Police contract 2010-2011

Ms. Dodge reported last year the NSPD joined the International Brotherhood of Police Officers Local #720. A three year contract, beginning July 1, 2010 is up for consideration. The terms have been discussed at work sessions. The contract provides a 3% wage increase like other Town employees this year, and wage openers for the next two years with no change to benefits. Union requirements for staffing of six officers will not be enforced over the next three years so long as the Town brings on the five summer officers. Dr. Baute voiced concern over the number of sick days and retirement sick days, which could accrue to 180 upon retirement.

Dr. Baute moved to table the contract until it can be discussed further with the IBPO Local 720. The motion was not seconded.

Dr. Baute moved to table consideration until the Council has the opportunity to sit down with Officer DeMatteo and a union representative within the next 6 weeks. Motion seconded by Mr. Lacoste.

Ayes: 1 (Baute) Opposed: 4 (Gaffett, Torrey, Lacoste, Martin)

Ms. Gaffett moved to approve the New Shoreham Police Contract for 2010-2013, seconded by Second Warden Torrey.

Ayes: 4 (Gaffett, Torrey, Lacoste, Martin) Nays: 1 (Baute)

5. Receive and act on TNS Historic District Commission letter re: General Commission Advisory No. 8

The Historic District Commission has taken the position that advisory #8 should not be rescinded. Discussion ensued.

Dr. Baute moved, seconded by Mr. Torrey, to send a similar letter to the Rhode Island Ethics Commission asking them not to revoke/repeal their advisory #8.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

6. Receive and act on Shellfish Commission letter re: subcommittee members

The Shellfish Commission asked that the Town Council create a water quality/pond restoration subcommittee of the Shellfish Commission. The subcommittee will include members who are not serving on the Shellfish Commission.

Dr. Baute moved to approve request of the Shellfish Committee to establish the Water Quality/Pond Restoration Subcommittee and to appoint Corrie Heinz, Kevin Hoyt and Laura Ernst to serve on the subcommittee along with members of the Shellfish Commission. Motion was seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

7. Determine which Charter Review Committee recommendations will be submitted for legal review and possible balloting

Due to the late hour, the item will be addressed at the next Town Council meeting.

8. Boards, Committees & Commissions

- Receive letter of resignation from Robert Brown from Sewer District Commission and Water <u>District Commission</u>
- Sewer District Commission appointment
- Water District Commission appointment

Ms. Gaffett moved to accept Mr. Brown's resignation with letter of thanks for time served, seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Wayne Battey, who serves on the Water Commission has offered to serve on the Sewer Commission. Brad Marthens has offered to serve on both boards.

Mr. Lacoste moved to appoint Wayne Battey to replace Robert Brown on the Sewer Commission and to appoint Brad Marthens to replace Robert Brown on the Water Commission, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

9. Act on requests for Town sponsorship of ConserFest and Blues on the Beach

ConcerFest is a fundraiser for the Block Island Conservancy. It will be July 15, 2010 from 12:00 to 3:30 in the afternoon. At the northern end of the town beach on staging.

First Warden Gaffett moved to grant Town sponsorship to Concerfest and Blues on the Beach, seconded by Mr. Lacoste

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

10. Act on recommendation of the Tax Collector to enter into E-Services Agreement to accept tax payments via credit/debt card and/or electronic check.

Ms. Gaffett moved to adopt the recommendation of the Tax Collector to enter into E-Services Agreement to accept tax payments via credit/debt card and or electronic check, seconded by Mr. Martin.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

11. Receive and act on Board of Tax Assessors letter re: abatements to the Property and Motor Vehicle Rolls

First Warden Gaffett moved to grant the abatements as recommended by the Board of Tax Assessors, seconded by Mr. Torrey.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

12. Receive and Act on Letter of Building Official re: F. Sullivan Notice of Violation

Ms. Gaffett moved to authorize the Building Official to contact the Town Solicitor to begin enforcement action in Superior Court, seconded by Dr. Baute.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

13. Minutes: March 31 (open & closed), April 29, May 3 Financial Town Meeting, May 4 (open & closed), May 12 (open & closed) May 19 (open & closed)

First Warden Gaffett moved to approve the minutes with minor changes, seconded by Mr. Lacoste.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

14. Correspondence: Pat Doyle to Block Island Times cc: Town Council

No action is needed or taken.

At 10:30, a motion to adjourn was made by Mr. Torrey and seconded by Ms. Gaffett.

Ayes: 5 (Gaffett, Torrey, Baute, Lacoste, Martin) Nays: 0

Minutes approved July 21, 2010

Fiona Fitzpatrick Town Clerk